

Draft Action/Summary Minutes
City of Sedona
Historic Preservation Commission Meeting
Vultee Conference Room, Sedona City Hall, Sedona, AZ
Monday, November 15, 2010 – 4:00 pm

1. Verification of notice, call to order, roll call and Pledge of Allegiance.

Chairman Unger called the meeting to order at 4:10 p.m.

Roll Call:

Commissioners: Chairman Brynn Unger and Commissioners Jane Grams, Michael Pierce, Helen Snyder and Stephen Thomiszer. Commissioner Noreen Wienges was excused.

Staff: Mike Goimarac, Kathy Levin, Donna Puckett and Michele Stover

2. Public forum for items not on agenda. Limit of 3 minutes per presentation. (Note that the Commission may not discuss or make any decisions on any matter brought forward by a member of the public).

Chairman Unger opened the public forum and having no requests to speak, closed the public forum.

3. Consent agenda:

Approval of minutes of October 11, 2010 meeting.

MOTION: *Commissioner Pierce moved to approve the minutes. Commissioner Thomiszer seconded the motion. VOTE: Motion carried five (5) for and zero (0) opposed. (Wienges excused)*

4. Commission and staff announcements and summary of current matters.

Kathy Levin read the following message from Greg Ruland: Please pass on my regard and thanks for the hard work of all of the Commissioners, especially Brynn and you, who make it so easy. Good luck to you all. By the way, I was officially appointed to the newly created Cottonwood Historic Preservation Commission on Tuesday, November 2nd. Regards, Greg.

Kathy indicated that the Commission has three vacancies and explained that Jane Grams filled an unexpired term that was only a couple of months, so she reapplied and was interviewed. Greg Ruland's and Brynn Unger's term were up for reappointment and the interviews of Jane, Brynn and two other candidates took place on Friday the 12th and recommendations will be made to the City Council to make the appointments. Chairman Unger indicated they are trying for the very next Council meeting.

Kathy indicated that a reporter for the Flagstaff Daily Sun contacted her a couple of weeks ago and they wanted to do an article on the Hummingbird House -- Hart Store. They did a very nice feature story on the front page about the history of the building and the owners, with a lot of photographs.

5. Presentation/discussion on the Open Meeting Law by the City Attorney.

Mike Goimarac explained that the Commissioners are public officials of a public body, and the City wants to avoid the vision of people in back rooms making deals, etc. The legislature has imposed these laws on all public bodies, except for themselves, including any board or commission of any political subdivision and all standing, special or advisory committees or subcommittees of the appointed body, and you are appointed by the City Council and fall within the definition of a subcommittee or committee of the City Council, so that is why this law applies to you. The other thing that is important about this is that if you, as an Historic Preservation Commissioner, say why don't we have three of us work on a project and do research -- you have then appointed an advisory committee that is then subject to the same Open Meeting Laws, so keep in mind that committees can themselves be advisory committees that would be required to comply with the Open Meeting Law.

In terms of what is required, Mike explained that the Law says that the meetings must open to the public to listen to your deliberations; however, there is no requirement that members of the public be entitled to speak at your meetings, although oftentimes that is a part within your discretion, but they have the right to observe your deliberations, etc. The other important definition is what a meeting is, because it transcends what we are doing here. This is a meeting and naturally it applies in this context, but under the law, meetings can be held through technological devices, so the Internet, email exchanges, telephone conversations, tweets, etc., can give rise to a meeting. A meeting occurs when a quorum of members, which would be four Commissioners, enter into a discussion in some form, such as by telephone or email, then you are having a meeting and you would have to be compliant with the Open Meeting Laws. Technological ways of communicating have created issues with a lot of public bodies throughout the state, so that is something to be aware of.

Commissioner Snyder asked if a quorum is based on the number of active members or assigned members and Mike explained that the safest definition would be the existing members, so for example, if you reduced your numbers by two and you only have five, then a quorum would be three members. Chairman Unger pointed out that the Commission previously did something we didn't have to, when we only had five members, because we could have met with three members and voted too. Mike explained that the Commission could have met if the Commission only had five seated members, because the majority would have been three. Otherwise, if you lose a lot of members, like on the City Council, we would be out of luck, because they couldn't even meet to appoint somebody, so the safest way of defining that is that it is the number of seated members at any time and you look at the quorum of those.

Additionally, public bodies must have an agenda posted on the Internet and three designated posting sites throughout the City that are official posting sites at least 24 hours before the meeting starts, and then you can only discuss matters listed on the agenda and the Law says "other matters related thereto". It is very easy to get off on some tangent and at some point become too separated from the agenda. The question you want to ask is, based on what an agenda says would a member of the public reasonably be expecting the Commission to discuss the topic or subtopic being discussed, because the whole idea behind the agenda is to give the public notice of what you are going to be discussing. For example, if you are talking about a specific property and you want to discuss how it would affect neighboring properties or the entire mix of historic properties, those things might be

tangential and allow you to discuss them, but it is important to stick as closely to the agenda as possible. You also want to try to keep the agenda the same; you don't want to reorder items on the agenda, particularly if the purpose is to deny the public an opportunity to listen. There is an emergency exception, where you can do something with less than 24 hours notice, but he doubts that this Commission would have an emergency that great. There have been emergencies, but there have been rare occasions where City Councils have had to meet with less than 24 hours notice and there are processes for doing that.

Mike explained there are times when the Commission can meet outside of the public's purview, and those meetings are called Executive Sessions. They can only be held for seven specific purposes, including personnel matters, confidential records, legal advice, litigation, salary negotiations, and negotiations for purchase or sale of Real Property. Legal advice is perhaps the only reason that would apply to this Commission. If you want to obtain legal advice on an issue, you can have those discussions with your legal representative outside the purview of the public. If you want to hold an Executive Session, you must vote to go into Executive Session and you have to have it noticed that you are going to go into Executive Session and the specific topic you want to discuss in Executive Session has to be on the agenda and only those people necessary should attend. You also can't vote in Executive Session. You can receive advice and you might have some discussion, but when it comes to making a decision, you have to come out of Executive Session and do that in the public's purview. You also take minutes or make recordings of Executive Sessions and those are available to members of the public body or law enforcement like the Attorney General's office.

The Attorney General's Office has a group called the Open Meeting Law Enforcement Team (OMLET) and they like to justify their existence. When they receive complaints, they investigate and follow through with them, and they are very good about keeping public bodies throughout the state in line. It happens on occasion and they might have questions and make inquiries, if people express concerns about any of the City's public bodies, so just be aware that there is an enforcement mechanism out there.

Email is an area where you must be very careful, because you can unknowingly almost engage in a meeting via email, so there are some very specific do's and don'ts in terms of how the Commission might communicate with each other. First you can't use it to circumvent the Open Meeting Law, such as by getting everyone's feelings on a particular issue before the meeting. Email can be used to disseminate information, but not to initiate a dialogue, so an article could be distributed as an informational kind of thing and it would not be in violation of the Open Meeting Law. Email can also be used to get legal advice, but you can't copy everybody else and have a discussion on any legal advice; however, communications with his office can be done individually by email without violating the Open Meeting Law.

Additionally, the Attorney General has said another no-no is if you propose some action via email, even though people might not respond. It is their opinion that even making a proposal outside of the public's view is a violation of the Open Meeting Law, so proposals, suggestions, etc., should be left to the meeting itself and be on the agenda for discussion. For example, you can't send an email to the Commission suggesting that the Commissioners look at a piece of property for historic designation, because the mere act of making a proposal via email is in an official Attorney General's opinion that it would be a violation of the Open Meeting Law -- it has never been challenged and the Attorney General's Opinions don't have the force of law, but typically we try to abide by them,

because the OMLET believes that is the correct interpretation of the law, so we encourage people not to make proposals to the rest of the public body via email.

Commissioner Snyder asked if it is still not allowed if it is to less than a quorum and Mike explained that you could technically email another person, or with a seven-member body, you maybe could communicate with two other people about an issue, but the hazard is that if one of the three people then communicates with another Commissioner, it is a "hub and spoke" situation that becomes a meeting, so even when you are communicating with less than a quorum, you need to be very circumspect that you don't then go and tell others what you learned.

Chairman Unger asked if having a Christmas party and inviting all of the Commissioners would be considered a meeting and would it have to be open to the public. Mike explained those are dicey issues, because when some members of the public see all of their cars at your house, they assume you are having a meeting, but there is no law against you socializing as long as you refrain from discussions that involve your function as Historic Preservation Commissioners -- you can talk about anything else, but if the conversation revolves into business, you could be in violation.

Commissioner Pierce asked if he could send an email that is a proposal to staff to relate to other Commissioners and Mike explained that you cannot use other people to circumvent the Open Meeting Law. Commissioner Pierce asked if Mike was going to cover the penalties for violating the Open Meeting Law -- they seem somewhat serious. Mike explained it is basically a civil offense with a maximum \$500 fine. The Commissioner indicated that as he read it, it involves intent or lack of intent and if you didn't intend to do it, you could be removed. If you intended to do it, you could be fined \$500 plus all attorneys' fees for any cost to remove you. He then asked if the attorney's fees involve the filing of the complaint, so every expense involved in removing you could be attached to you and Mike indicated that in a worst case scenario, yes. Typically, the OMLET tries to be reasonable in terms of their consequences and only blatant violations of the Open Meeting Law would deal with those kinds of harsh penalties. They oftentimes will put you on probation and require you to take a class on the Open Meeting Law, unless it is a very open notorious kind of thing. We try to avoid even the perception of any violation. Unlike the Open Meeting Law, Conflicts of Interest are criminal felony offenses.

Commissioner Pierce asked Mike to talk about intent versus lack of intent as it applies to the Open Meeting Law and Mike explained that if you are knowingly violating the law, you are subject to the harsher treatment. We have had situations where people mistakenly pushed the wrong button and globally sent something out, etc. Typically, an intentional violation is pretty obvious. It really depends on the factual scenario and ignorance isn't an excuse. The Recording Secretary recalled a situation where one Commission was having a meeting and unknowingly a quorum of another Commission attended the meeting without it being noticed that a quorum might be present. Mike added that there have been situations where a meeting didn't get posted and people thought it was and held the meeting, but that would be an unintentional violation of the Open Meeting Law. There have been situations where we believed people pulled notices down off of one of the official boards, and if you are not posted in all three places, that would be an unintentional violation, because you held a meeting, when unknowingly there was a mistake with the posting. Mike added that if you put it on the Internet and the Internet crashes 24 hours before the meeting and you hold the meeting, it would be an unintentional violation.

Commissioner Snyder indicated that with an intentional violation, there is a pattern of behavior; however, Mike explained that is one point, but you don't have to show a pattern. If you decided to go to a restaurant tonight and meet to discuss historic preservation, even if you only do it once, you violated the Open Meeting Law and that is an intentional violation. The Recording Secretary added that you also might talk about something that is not on the agenda.

Mike Goimarac pointed out that there is a lot of the actual language of the Open Meeting Law in a handbook put out by the Arizona Ombudsman, which is another entity in the state that oversees the Open Meeting Laws and provides advice about violations. They are appointed by the Governor's Office and they are very good about disseminating information.

Mike indicated that in the interest of time he would distribute the Public Records Policy, and then explained that every record a Commissioner creates as part of this body becomes a public record and that includes emails you receive from people outside of the City. For example, if someone emails you about historic preservation, even on your personal computer, that becomes a public record and you have a duty to maintain that, and that is all summarized in the policy. Public records include memos, budgets, licenses, permits, photographs, etc.; all of those things generated by members of this public body and they have to be maintained. If someone makes a request, we have to disclose all of those per the Law.

Chairman Unger asked if the City would let the Commissioners know that they are needed, and then we would have to turn them over to you, so we should keep them on our computer and not delete them. Mike indicated that if you are the recipient of an email, you would keep that; however, if you have emails that involve the Commission on your personal computer, one way of preserving them is to forward them to your Staff Liaison, and they then become part of the City's email process and can be disclosed.

Mike explained that violations of the Conflict of Interest have some criminal penalties involved and if you violate the Conflict of Interest Law, it is a Class 5 Felony and it can subject the individual to some liability, plus any action taken in a Conflict of Interest becomes void, so it is critical that you are aware of those. The main type of Conflict of Interest is the "Substantial Interest" conflict, which means that for a decision that this Commission is making, you or your relative has a "substantial interest" meaning a money or property interest in that decision. For example, if you lived next door to a possible historic site and, if designated, it could potentially increase or decrease your property value. When you have a Conflict of Interest, you have to do two things. First, you have to disclose the interest to the Commission and it is good to disclose it in writing. Secondly, for that decision where you have a Conflict of Interest, you have to refrain from participating in any manner. You must refrain from voting and from being involved in any discussions during the meeting or outside of the meeting on that issue. You cannot participate in any manner on an issue in which you have a "substantial interest". It doesn't mean that you have to resign from the Commission, but on that issue, you cannot participate in any way.

There are some exceptions to the concept of Conflict of Interest and the statute has what is called "remote interests", which might appear to be substantial interests, but the statute states that those are exceptions. For example, if you are an unpaid officer in a non-profit group like the Historical Society, even though you are an officer and you are unpaid, it

would not create a substantial interest that would preclude you from being on this Commission and participating. If you own less than 3% of a corporation that is involved in a decision you are making, you could still participate. Another exception is if you are a recipient of public services like everyone else, like members of the City Council that live in the Chapel area and the City makes decisions on sewer and drainage in that area that would potentially have an effect on their home values, but because you are merely a recipient of sewer services doesn't mean that you have to declare a conflict. Additionally, it also says that if you have a similar interest to a class of at least 10 persons and your interest is no greater than theirs, then that is a remote interest and you could still participate in a decision. For example, if there was a zoning issue in your subdivision and there were at least 10 more people in that subdivision that would be affected more than you, you could argue that you could still participate in that decision, because there is a class of at least 10 people.

Mike explained that another conflict is the "City Provider" conflict and that is now that you are a public official, you cannot provide services, supplies, equipment or materials to the City if you are a public official. For example, if you own a hardware store and the City wants to buy fertilizer from you, you could have a conflict as a City employee or a public official. If you want to give it to us that is fine, but there is an exception and that is if we obtain those materials pursuant to competitive bidding and you are the successful bidder, then you could remain on the Commission and sell that fertilizer to the City. The second exception is a monetary exception in that you could sell the City up to \$300 of fertilizer, but not more than \$1,000 in any given year. There have been occasions where a public official has been a professional and had an interest in their firm offering services to the City when they have been on a Commission or City Council, and when we have been made aware of this, they had to make a decision about staying on the public body and agreeing that they were not going to sell any services to the City, since we don't go out for bid for professional services.

Mike explained that the public official has the obligation to track the value of the services provided and if it is violated, it is a criminal offense, so the public official would have to ensure that the City doesn't exceed the monetary limits. Most of the time, the City is aware of people's professions and we may have a discussion with that public official about that information regarding the parameters, etc. If you have an issue regarding Conflict of Interest, it is good to come to the City Attorney's Office and request an opinion, because we are obligated to render opinions about Conflicts of Interest and if our opinion is that there is no conflict and you rely on that opinion and it is later challenged, that opinion provides some personal immunity from liability. In other words, it would not be a criminal offense, if you proceeded in light of the formal opinion by the City's legal counsel, so it is always good to inquire when you have a question.

Mike Goimarac indicated that some other conflicts are called "Self Dealing" conflicts. For example, you can't represent a person for compensation before the City, like representing someone in front of the Planning & Zoning Commission if you are an architect, etc., and if you become aware of confidential information during your term that could be used for your personal profit, you can't disclose or use that information during your term or for up to two years afterwards. Additionally, you can't receive directly or indirectly any additional compensation for the services you do in connection with your job, and you can't use your official position to secure any valuable benefit that would not normally accrue to you, so for example, it is not like if you are on the Commission, we will waive your traffic tickets, etc., but when in doubt consult with his office. Mike then distributed copies of the Public

Records Policy and encouraged the Commissioners to call or email him if they have questions, and he noted that the Arizona Ombudsman is also a good source of information and they have a website at www.azoca.gov. Kathy Levin suggested that if the Commissioners have questions about the Open Meeting Law requirements, etc., they can forward those questions to her and she will ensure that Mike gets them.

No legal action was taken.

Note: The following portion of the minutes is taken from the Recording Secretary's notes and recollection of the meeting, because of a recording equipment malfunction.

The Chairman suggested proceeding to agenda item 7 to accommodate the members of the public who have been waiting; the Commissioners agreed.

7. Discussion/possible action on applications received for the Historic Preservation Commission Small Grant Program.

Kathy Levin explained the parameters of the 50-50 matching Small Grant Program and indicated that Keep Sedona Beautiful presented a proposal to repaint the exterior sides and trim of the Pushmataha building, and the applicant can define the colors. This applicant has received three other grants, but not in the last year and all information was provided.

One question that the Commission might want to consider is if the request is critical or cosmetic. We could have received better pictures, but the site visit helped confirm the deterioration. The request is for \$1,830 with a 50% match and she scored the request 80.

Chairman Unger asked about having a second cycle, and Kathy indicated that is undecided and explained that first the amount was \$15,000, then it was reduced to \$12,000 and with the current economy, it then was reduced to \$4,000 for which she was grateful, because we have done some great small projects with the funds. The Chairman explained that generally we have offered two cycles, so that is something to keep in mind; however, Kathy pointed out that was when there was more money and fewer applications.

Commissioner Snyder asked who scored the requests and Chairman Unger explained it is an easy scoring system and Kathy Levin did that for the Commission, plus last year we pulled back anyone who was not considering Landmark designation. All of the information is on the CD that the Commissioners were given. Commissioner Snyder indicated she was just curious as to if it was Kathy and the Chairman or just Kathy etc., and Kathy Levin explained that she synthesized the information for the Commission.

Applicant, Cole Greenberg, Chairman of the Facilities Committee, Keep Sedona Beautiful, Sedona, AZ: Indicated that he had been a professional home inspector, etc., and associated with this building for 20 years. The building was painted six years ago and damaged material was removed at that time; however, the paint is now failing and there is new rot. They found Noah's Ark, but this building is not going to last that long. Arizona is a desert state, but there is fungus that gets into the wood and they will have repairs, because some of the wood is completely destroyed.

They have chosen Dunn Edwards colors for the siding and trim, with the lighter colors being for the trim. The two sets of colors are Mother Earth and Ecology or Brick Fence r

and Musk. The Brick Fence goes toward the red, but the others get away from the red, because it doesn't do well in the sun; however, the building was red when KSB received it and there are no colored historic pictures to show them what it was originally.

Chairman Unger asked about the LRV value of the colors chosen, since there is a City requirement and Mr. Greenberg indicated he didn't know. Councilor DiNunzio asked about the selection of more than two colors and Mr. Greenberg explained that they don't care. They offered more than one option, but they just want it lighter, because it was red before and it was painted six years ago.

Commissioner Thomiszer referenced the goal of historical authenticity and expressed concern about the historical accuracy if it has to meet today's standards. Chairman Unger explained that the Phoenix Historic District stays within their standards as well. Commissioner Thomiszer suggested that the applicant check with the manufacturer to get an address where they could see the Mother Earth color.

Mr. Greenberg indicated that he is asking for assistance, because he is color blind; however, the Chairman pointed out that it is not the Commission's role to actually select the color; however, she believes it would have to meet the City's standards. Commissioner Thomiszer expressed concern that if they want to select a color that would not be affected by the UV rays -- these colors selected are basically the same. Mr. Greenberg indicated that they are asking to change the color within the LRV guidelines, but they want it to be lighter, so the paint will last longer. Commissioner Grams expressed concern about the darkness of the colors and noted that there is very little contrast between the colors.

Chairman Unger pointed out that green can sometimes jump out at you and would be going away from the desired look; however, she doesn't know what leeway the Commission has. You may actually be able to go lighter than what you have chosen. Additionally in the past, we have had the applicant put up a small section of the paint as a test and she would suggest that be done, so you can see what the color is actually going to look like, because some brown colors turn pink.

Mr. Greenberg explained that he can't see pink and red like most people, but he can see the change in intensity. There could be a brown with less red; they don't care, and they have no preference on color, they just want it lighter.

Commissioner Snyder asked about having the darker color for the house and the lighter color for the trim and Mr. Greenberg commented that is the way it is now. Commissioner Thomiszer indicated that it should be the opposite and the Chairman agreed and indicated that could help save the building from the sun. The Chairman added that the Commission may be able to come back with some colors for the applicant's consideration.

Kathy Levin pointed out that today's issue is to consider the funding of the grant and Commissioner Thomiszer thanked the applicant for the proposal and asked staff if we normally check the contractor with the Better Business Bureau. Kathy explained that we ask for license information and the applicant pays for all of the work, and then is reimbursed according to the grant.

Mr. Greenberg explained that he doesn't want to send the color to the Board of Trustees; if so we are doomed; they just want it lighter, so he is available to answer any questions.

Commissioner Snyder asked if this is work that could be delayed for a year and Mr. Greenberg stated no; the building is wooden and it was put up in the '60s, so it was not treated before they got the building, and they initially had no money to paint the building. They already replaced all of the west side of the building and the sun is destroying it. It must be done, so if they don't get the grant they must find the funds.

Kathy Levin indicated that the applicant for the second grant is the Maquire Family Trust for \$1,375 and that property is landmarked so it received 10 points, and it was not funded last year. The work meets the program requirements and there is a substitute page 2 showing the scope of the work proposed. This proposal also scored 80.

Applicant, Kathy Maquire, Sedona, AZ: Indicated that they want to preserve the exterior ends of the wood beams and replace where necessary. Copper green is for dry rot and termites, and all 22 beams would be primed with a stain blocker. Additionally, when it is financially feasible we will lengthen some of the beams and cap the rest. They appreciate the opportunity to apply.

Commissioner Thomiszer asked if their goal is to replicate the length, how they know the original length of the beams and Ms. Maquire explained that they know from the pictures. Commissioner Grams noted that Rob's bid didn't specify the number of coats and the other bid specifically said two coats, so she wondered if there was a clear understanding regarding the number of coats in Rob's bid. Kathy Maquire explained that they didn't ask; however, he has done work for them before and she would imagine two coats would be applied if needed. Commissioner Thomiszer indicated that if the applicant is comfortable with his work, then they could just clarify the number of coats with him.

Commissioner Snyder indicated that the large beams are the point of most deterioration, because they are exposed to the elements, so it is smart to do the work and she is supportive of the request.

Note: The meeting was recessed at approximately 5:35 p.m. to address the recording malfunction and reconvened at approximately 5:40 p.m. The remainder of the meeting minutes is taken from the recorded tape.

Summary Discussion:

Chairman Unger suggested that the Commission complete its discussion on the Keep Sedona Beautiful grant prospect. Commissioner Thomiszer indicated that he would be interested in finding out if it would be possible for them to take a piece of the exterior and have it analyzed, if it isn't prohibitive in cost, to see what some of the authentic colors of that building were. Arbitrarily picking colors out of a hat seems crazy for the Commission to be doing, but sending a wood sample to a lab could be very costly. Chairman Unger pointed out that there would be an issue on one side of the building, because it has been replaced. Commissioner Thomiszer indicated that it sounded like the east side is all authentic wood. The Chairman indicated that is a possibility, but it is not really what we are here to discuss tonight. We are here to discuss whether or not we are willing to fund them doing this, because we feel it is important enough to invest the city money in repainting it. Commissioner Thomiszer indicated he would say it is important after observing the rot, when Commissioner Grams started flicking away at it, which brought the necessity to our attention; he would just ask if we could authenticate the color and a call to the Better Business Bureau on any of these selected would be beneficial.

Commissioner Grams indicated that she is totally supportive of giving them the support to do it as long as it is done correctly. She wouldn't vote for any of those colors they have; they are hideous. The Commissioner asked if there are any old pictures and Chairman Unger indicated there aren't any old color pictures. Commissioner Grams indicated that when it was originally built, she has a feeling it was all natural wood, and then people started painting it to try to preserve it. The Chairman suggested that perhaps she, Kathy and another Commissioner could discuss where we are going with the colors separately, because if they paint it green, it would be a disservice.

Commissioner Thomiszer indicated that the idea of painting a section, whatever color is selected would be real . . . The Chairman interjected that the Commission can make that a requisite. (Tape unclear - multiple Commissioners were speaking simultaneously and reminded to have only one speaker at a time.)

Commissioner Snyder indicated that she doesn't have the same reaction to green, because in Hawaii, many of the old golf course buildings were painted green and they had green trees around them, etc., so that was not as objectionable a color to her. Commissioner Grams indicated it wouldn't be to her in Hawaii, but it is to her in Sedona. Commissioner Snyder agreed that it needs to be repainted and whoever they had last time did an abysmal job or used poor product, because six years is not a long time for paint to last. It almost looked like bubbling was occurring and flaking, and that is poor application, so the choice of contractor is key, if we are going to give the money and get the value out of what we are giving them.

Chairman Unger noted that it takes two seconds to go to the Better Business Bureau and find out if there is anything against a contractor. You can go online and look at the contractor's license and all of the information.

Commissioner Pierce indicated that he would be inclined to support it with the stipulations that Commissioner Snyder just brought up. Chairman Unger asked if it could be approved if the Commission makes stipulations about making sure that the contractor is appropriate or would this need to be brought back in another meeting. Kathy Levin explained that if the Commission is comfortable making a funding decision tonight, you could, and that would be pending a decision by a delegated group on the color being consistent with the LRV. If the Commission is not comfortable having a delegated group, it could be extended and approve the funding pending a full review of the color in a subsequent meeting.

Commissioner Thomiszer indicated that the applicant seemed anxious to get the building protected, and the Commissioner indicated that he doesn't know the seasons, since he has only been here since July, but in Chicago, there are certain things you don't do in the winter months and one is painting, but he doesn't know if that applies here. Chairman Unger indicated that painting tends to occur year-around and it is not an issue here.

Chairman Unger noted that staff is suggesting one of two motions; we either move that we are going to approve the funding of this project, and then have a small group address the color or the Commission could approve the funding, and then return it to the Commission at next month's meeting. The third option would be not to approve it at all until a later date. We also have to consider the other application, because we are looking at having a very small amount left in the grant program.

Kathy suggested having a single motion that covers both applications and the Commission could go around the table and get a consensus on the Van Ess application, and then she would have a proposed motion for the Commission to consider. The Chairman then asked for comments on the Van Ess property for the repair of the beams and other damaged areas.

Commissioner Pierce indicated he is inclined to vote for the funds to approve the project and Commissioner Snyder indicated that she has no issue with what is proposed; she supports it. The Chairman pointed out that it will be the same color as it is now. Commissioner Grams stated that she supports it and Commissioner Thomiszer indicated that it also has his support. Chairman Unger stated that she supports it too.

Commissioner Snyder indicated that it should be two separate motions, because the first one would have contingencies and the second would not; Commissioner Thomiszer agreed. Chairman Unger agreed as well. Regarding the Maquire application, Commissioner Thomiszer indicated that the only thing that might be added is the clarification on the number of coats, so it could be approved with the clarification on the number of coats. Commissioner Pierce indicated that it said two coats; however, Commissioner Grams indicated that the handwritten page didn't have it and the Chairman clarified that the estimate didn't have it. Commissioner Grams indicated that they feel comfortable that he is going to do that, but it is necessary in her opinion.

Commissioner Thomiszer pointed out that the homeowner represented that they have worked with the contractor and they are confident of the contractor, and that speaks volumes. Chairman Unger asked Commissioner Thomiszer if he is in favor of both projects with the stipulations. Commissioner Thomiszer stated yes, the stipulation on Maquire's is the number of coats and on the other is a determination of the color and if the real color can be authenticated, and if they paint a big swatch. Commissioner Grams indicated that she agreed.

Commissioner Snyder indicated that she has more concern about the quality of work than the color, so her concern is the choice of the contractor and her contingency would be to ensure the contractor is not the same as before. The Chairman indicated that the Commission hasn't run into that before and Kathy explained that we just require that they are licensed. The Chairman pointed out that if the Commission is stepping outside of what the grant actually states, she doesn't know that we can do that. Commissioner Snyder indicated she doesn't want to pay money every six years to paint this house, because they are choosing poor quality workmanship. Kathy Levin indicated that according to the guidelines, we ask the applicant to provide two bids and identify their preferred bidder and they each must be licensed, but she can check to see if the preferred bidder is the same that they worked with in the past; however, the slip between the cup and the lip was not in the selected bidder, but in the designated representative overseeing the work in the prior grant. Commissioner Snyder indicated she would be interested in knowing if they are choosing the same person. Kathy Levin indicated that she could look at the prior grant application. In working on language, Kathy noted pending approval of the color and discernment that contractor is distinguishable from the prior contractor. Commissioner Snyder repeated that she wanted confirmation that the selected contractor is not the one that did the prior work. Kathy indicated the contractor was not involved in the prior Small Grant funded. The Chairman noted that they say they are selecting him because of previous positive experience.

The Recording Secretary pointed out that the painting was done six years ago, which was before the Small Grant Program existed. The Chairman agreed it would have been done outside of the grant program, so we would have to ask them for a record of it. Commissioner Grams indicated that the way it is sprayed on, it isn't a great adhesive, the brush is the greatest, but it depends on who they get. If it doesn't go on right, it is not going to stay.

Commissioner Thomiszer indicated that some products are designed to be sprayed and the Chairman agreed. Commissioner Pierce indicated that he would like to see clarification on their positive experience. Commissioner Thomiszer explained that we are looking for the name of the contractor that did it six years ago, because we don't want to throw grant money to that contractor.

The Chairman asked if the Commission should wait to decide on this grant and get the answers and Commissioner Thomiszer agreed it should be tabled until next month. The Chairman pointed out that if there is this much resistance and worry about what is going to happen, then we need to have these answers and we can have the color done too. The consensus of the Commission was unanimous to table the decision on this application until next time.

Councilor DiNunzio indicated that in regard to rolling versus spraying, it says that he would spray and back roll and the Chairman agreed, and indicated it was being tabled, and the contractor would be determined and if it is the same group we will have some questions for them.

Regarding the Maquire Family Trust, the only issue was perhaps ensuring there are two coats of paint on it, so she guesses there would be a stipulation that they request that. Kathy Levin indicated that she didn't hear that, she thought there was an understanding that the applicant chose the preferred bidder and that they would get clarification as to whether one or two coats are necessary, but we are not making that a Condition of Approval. Chairman Unger agreed and indicated she is not as worried about this one as the other.

MOTION: Commissioner Snyder moved for approval of the requested grant for \$1,375 for the Van Ess house. Commissioner Thomiszer seconded the motion. VOTE: Motion carried five (5) for and zero (0) opposed. (Wienges excused)

6. Discussion/possible action on revisions to Historic Preservation Commission site on the city website.

Chairman Unger suggested skipping this discussion to move the meeting along. Commissioner Pierce indicated that he gave two disks to Kathy Levin. One is all of the photos he took and the other is one photo for each property, and there are four or five properties that have one to three photos, so it is explicit in terms of what to consider for the website.

The Chairman suggested bringing this item back to look at it at the top of the next agenda, and we need to get Commissioner Thomiszer's name on the website as a Commissioner. In the photo gallery, she also wants the Commission to consider all of the shots that Richard Mayer took. We own those and should use them more, but we will go over those things next time.

No legal action was taken.

8. Discussion/possible action on FY 2010-11 Commission Work Plan and commissioner involvement in Work Plan tasks:

a. Education and Public Outreach

There was no discussion on this item.

b. Survey Field Work

Chairman Unger indicated that for the survey field work and the centennial project, she has everybody's name listed and the project they have said they would be involved with in their working teams. The list will be updated on a regular basis.

Commissioner Snyder noted that her name is misspelled and the Chairman stated that it would be corrected. The Chairman suggested that Commissioners Snyder and Grams look at the properties listed at the bottom and pointed out that since Vice Chairman Ruland will no longer be with us, the property that he chose will also be reassigned. We will discuss this more next time, because we need to start concentrating on these and she will assist on any of them.

Commissioner Snyder asked about the location of Copper Cliffs and the Chairman described its location and indicated that she wants everyone to have one property, so we can try to move this item forward.

Kathy Levin indicated that she created an outline on how to research an historic property, because she would like for each Commissioner to adopt one of these properties, survey it, and do some research on it, so we have as much background information as possible. Some of them may be eligible for landmarking. After the presentation at the last meeting, she wrote to everyone and heard from two parties. One was the property owner on Color Cove and the owners are interested in having the Commission do the survey. She also heard from the owner of the older of the two Babbitt properties and she is also interested in having the Commission come out. We need that consent before we initiate the activities and she will follow-up with those she hasn't heard from. The Chairman asked the Commissioners to keep in touch with Kathy and she will let them know when we can actively pursue those.

No legal action was taken.

c. Madole Home landmark prospects

There was no discussion on this item.

d. Early Don Woods-designed homes

There was no discussion on this item.

e. Arizona Centennial 2012 (February 14, 2012)

Chairman Unger indicated that she had asked everyone who has a project to give her a plan and she has only received one. The Chairman distributed copies of the

information needed and the Chairman stressed that there really are two things that she is asking for. She needs to know what you are doing with these events; they need to come back to the Commission. In a sense, we are not operating on our own, we are actually operating under the guise of the City and we have to know what is happening and what that project is about. The Chairman indicated that she is also asking the Commissioners to realize that although the City has offered to possibly help fund something, she doesn't want anybody being told that we are going to fund things, because we have to look at all of the things being worked on and know what all of the groups are going to need. If we don't fund everybody and we start promising things, we will get ourselves in trouble. She wants everyone to come back to her with what they are thinking of doing.

The Chairman indicated to Commissioners Grams and Thomiszer that in the next meeting, we can go over some more ideas that they can pick up, because she is hoping that each Commissioner will take one. Currently, Commissioner Snyder is going to do the quilting and Commissioner Pierce is talking about a film, but we need to have another discussion about that, since it is taking a different turn. Again, we should not be talking about these things outside of the meetings; we have to ensure that whatever we are doing is in the public eye and that the City Council knows what we are doing.

Chairman Unger again indicated that she isn't asking for the plan to be in full detail; she just needs to know. Commissioner Snyder asked if they could work with their contacts to develop the plan and the Chairman indicated yes. The Commissioner then asked if she already has a proposal for a budget should she get on the December agenda to give a presentation. Kathy Levin pointed out that it is a standing item on the agenda and the Chairman encouraged the Commissioner to bring it back, because we do need to look at these things.

Commissioner Snyder explained that the quilters asked if it should be sent to her or to Kathy Levin and she told them to send it to Kathy Levin. Kathy stated that she has the cost proposal for the centennial quilt and the outline on the centenarian project. Chairman Unger indicated that in December we will have more to discuss and suggested that Commissioners Thomiszer and Grams talk with Kathy about some of the things out there. She is hoping to have a list of the people in the community we would like to have involved and we need to get a meeting together, which will be a public meeting that is publicly noticed. She also hopes that as many of the Commissioners as possible can attend that meeting.

Commissioner Thomiszer asked when the Chairman hopes to set a date for that meeting and Chairman Unger indicated that she would like to have it in January at the latest and she is hoping to meet with the schools before then. The schools will be one group and the non-profits and businesses will be another group.

The Chairman noted that Commissioner Pierce has a lot of things he has discussed, but he probably needs to talk with Kathy Levin about the things that have happened. Commissioner Pierce asked if he would be circumventing the Open Meeting Law, because the City Attorney said that he couldn't forward messages to staff. Kathy suggested that they get together on Friday to fill her in. The Commissioner indicated that he initially thought he could disseminate information to staff to be forwarded, but now he is not sure that is the appropriate method. Councilor DiNunzio explained that it

depends on the context and Kathy added that it is the context of work that you are doing outside of the Commission that he was shining light on, but she would like to be brought up to speed, and then all of it can be brought back to the next Commission meeting. Chairman Unger pointed out that Kathy can't make the decision on it; only the Commission can move it forward, but you can talk with her about it.

Commissioner Snyder indicated that her concern was that the Commission heard in the joint session with the City Council that they would like for the Commission to come back in January with a proposal, if a project needed money, so it is critical to have enough time in December to discuss the quilting project, because people have already put work into the preparations. Kathy Levin pointed out that she told them that there was no way we could guarantee any funding on that project, because this would have to be approved by the Council. Commissioner Snyder stated that, for the record, she has not said a thing; it is a proposal. Kathy Levin added that would come after, because they would need to make some commitments to get the work underway and purchase the materials, etc., so there wasn't an expectation. We want one proposal of all of the projects we're contemplating for the centennial to go to the Council for consideration for the next fiscal year and/or in part for this fiscal year.

Chairman Unger indicated that she doesn't think that Commissioner Wienges has a lot and Commissioner Pierce has said that he doesn't think he needs anything, but we also need to think about whether or not we are going to do a big event. The Chairman stated that she talked with Mary Pope who is the President of the Sinfonietta and they are going to do the Grand Canyon Suite on the 10th of February in 2012 and she would love for that to tie in.

No legal action was taken.

9. Discussion/possible action on:

a. Prospects for designation of landmarks or historic districts

There was no discussion on this item.

b. Certificates of Appropriateness

There was no discussion on this item.

c. Updates to Historic Resource Survey

There was no discussion on this item.

d. Condition of Landmarks or other historic properties

There was no discussion on this item.

10. Discussion/possible action regarding future meeting dates and future agenda items.

Chairman Unger indicated that it might be appropriate to think about having an extra meeting date in January, when we invite all of the businesses, etc. We lost some dates this year, but we do have the next meeting scheduled for the second Monday in December, which is on December 13th at 4:00 p.m. The Chairman requested that

Commissioners let Kathy know if they can't attend.

11. Adjournment.

The Chairman called for adjournment at 6:20 p.m., without objection.

I certify that the above is a true and correct summary of the meeting of the Historic Preservation Commission held on November 15, 2010.

Donna A. S. Puckett, *Recording Secretary*

Date